

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

BRIAN IRVIN

PLAINTIFF

v.

No. 1:23-cv-6-JMV

COMMISSIONER OF SOCIAL SECURITY

DEFENDANT

ORDER ON PETITION FOR ATTORNEY FEES

Before the Court are Plaintiff's motion [29] for attorney fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), and Defendant's response [30]. For the reasons that follow, the motion will be granted.

In these proceedings Plaintiff sought judicial review of the Social Security Commissioner's final decision denying a claim for benefits. On October 16, 2023, the Commissioner filed a consent motion to remand [25] the case to the Social Security Administration. That same day, this Court's Order [27] granted said motion and reversed the Commissioner's decision and remanded to the Social Security Administration for further proceedings. A party who obtains a remand in a social security appeal pursuant to the fourth sentence of 42 U.S.C. § 405(g) qualifies as a prevailing party for purposes of fees under the EAJA. *Breaux v. U.S.D.H.H.S.*, 20 F.3d 1324, 1324 (5th Cir. 1994) (per curiam).

Plaintiff, through his motion, seeks attorney fees in the amount of \$4,536.00. In support of the motion, Plaintiff's counsel submitted a statement regarding the time expended litigating this action. According to the motion, Plaintiff's attorney spent a total of 24.0 hours on this case at a rate of \$189 per hour.

The Court, having thoroughly considered the motion, noting that the defendant does not oppose the motion, and the applicable law, finds the requested award is reasonable; and no special circumstance would make the award unjust.

Therefore, it is ordered that the Commissioner shall promptly pay Plaintiff \$4,536.00 in attorney fees for the benefit of his counsel. As a matter of practice, an EAJA fee made payable to Plaintiff may properly be mailed to Plaintiff's attorney.

SO ORDERED, this the 18th day of December, 2023.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE